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The Honorable James K. Bredar
United States District Judge
101 W. Lombard Street
Baltimore, Maryland 21201

Re: United States v. Gerald Johnson et al., JKB-16-363

Dear Judge Bredar,

We write to update the Court as to the status of discovery in the above-captioned case. Earlier today, we produced to defense counsel content associated with 14 social media accounts, which we obtained pursuant to federal search warrants last week. Pursuant to the Court's amended scheduling order, *see* ECF No. 166, we have identified the individual associated with each of the 14 accounts. We have also produced the publicly available YouTube videos that we referenced in Court on June 5.

We also wish to notify the Court that following the hearing on June 5, we began collecting photo arrays and related material associated with the witnesses who testified in the state trials of Gerald Johnson, Wesley Brown, David Hunter and Kenneth Jones. While collecting those materials, we discovered that several documents were not included in our first and third discovery productions due to technical errors in "building" those productions. In preparing the productions, we reviewed and "tagged" certain documents on a page-by-page basis, rather than on a document-by-document basis, on account of the fact that many of the documents contained both *Jencks* and non-*Jencks* material. Despite our direction that the non-*Jencks* material be included in Productions 1 and 3, it came to our attention on Monday that the materials were not transmitted to our production discs when our paralegal "built" the productions using our I-Pro database.

We have identified all such missing materials, and we produced them to defense counsel today, along with an index itemizing the relevant page ranges. We note that many of the materials are duplicative of materials already produced; similarly, many others are local police reports that, despite our willingness to produce them voluntarily, do not constitute discoverable Rule 16 material. *See United States v. Fort*, 472 F.3d 1006 (9th Cir. 2007), *cert. denied*, 128 S. Ct. 375 (2007) (investigative reports prepared by San Francisco police officers prior to federal RICO prosecution qualified for discovery exemption under Fed. R. Crim. P. 16(a)(2) when turned over to federal prosecutors and used in federal investigation and prosecution). More importantly, it is

1 See, e.g., *Massiah v. United States*, 377 U.S. 201, 207 (1964) (“We do not question that in
this case, as in many cases, it was entirely proper to continue an investigation of the defendant and
his alleged confederates, even though the defendant had already been indicted.”); *Maine v.*
Moulton, 474 U.S. 159, 180 (1985) (“The police have an interest in the thorough investigation of
crimes for which formal charges have already been filed. They also have an interest in
investigating new or additional crimes.”); *United States v. Anderson*, 523 F.3d 1192, 1196 (5th Cir.
1975) (“Our decision does not question the propriety of continuing governmental investigation of
an indicted defendant’s suspected criminal activities.”); *United States v. Banks*, 52 F. Supp. 3d
1201 (D. Kan. 2014) (“Defendants do not cite any authority for their argument that the return of
an indictment terminates an investigation.”).